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RUCPDO/DEPT OF COMMERCE WASHDC
RHEBAAA/DEPT OF ENERGY WASHDC
RUEATRS/DEPT OF TREASURY WASHDC
RULSDMK/DEPT OF TRANSPORTATION WASHDC
RHMFIUU/FAA NATIONAL HQ WASHINGTON DC
RUEHRC/DEPT OF AGRICULTURE WASHDC

UNCLAS SECTION 01 OF 03 NEW DELHI 002526

SIPDIS
SENSITIVE

STATE FOR SCA/INS AND EEB
USDOC FOR ITA/MAC/OSA/LDROKER/ASTERN/KRUDD
DEPT PASS TO USTR CLILIENTFELD/AADLER
DEPT PASS TO TREASURY FOR OFFICE OF SOUTH ASIA MNUGENT
TREASURY PASS TO FRB SAN FRANCISCO/TERESA CURRAN

E.O. 12958: N/A

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IN

SUBJECT: COMMERCE A/S BOHIGIAN MEETS WITH MINISTRIES OF FINANCE AND
COMMERCE

Reftel: Mumbai 428

¶1. (SBU) Summary: Commerce Department Assistant Secretary for Market Access David Bohigian met on September 8 with Ministry of Finance Revenue Secretary Bhide and Ministry of Commerce Joint Secretary Mukim to discuss US industry concerns on tariff and non-tariff barriers to US exports to India. Bohigian raised boric acid, remanufacturing, tires, cosmetics, McDermott and Federal Mogul with Mukim. Bohigian noted that while US-India trade was surging, it was important to resolve these issues which had the potential to undermine the positive momentum in the bilateral trade relationship.

In a separate meeting, Revenue Secretary Bhide defended much of the government's tariff actions, but pledged to look into the individual cases that Assistant Secretary Bohigian brought to his attention.
End Summary.

¶2. (SBU) On September 8, Assistant Secretary Bohigian met with Ministry of Commerce and Industry (MOCI) Joint Secretary Anil Mukim.

Bohigian began by noting the recent visit of Commerce Deputy Assistant Secretary Holly Vineyard and a request she had made on August 25 for a GOI response to US concerns over barriers to the export of boric acid to India. Bohigian queried Mukim on the status of that reply, which Mukim had promised to Vineyard in one week. The GOI official replied that it was awaiting clearance and had taken longer than expected because MOCI had needed input from the Ministry of Agriculture. "You should not make promises you cannot keep," Bohigian emphasized to Mukim. Mukim replied that he would try to get a response out as soon as possible.

¶3. (SBU) Turning to the issue of McDermott and the more than \$110 million now owed to the company by the GOI for the construction of oil platforms in the 1980s, Bohigian asked where discussions to resolve the issue stood. Mukim referred Bohigian to Additional Secretary Surjit Mitra in the Ministry of Heavy Industry.

¶4. (SBU) Bohigian raised the issue of remanufactured products, noting how they are different from used products, and explained the basis for categorizing them separately. He stated to Mukim that the Indian WTO delegation in Geneva had told the US delegation that the issue of remanufactured goods was both a bilateral as well as multilateral issue. Mukim responded that it was his understanding that this was a multilateral issue, not bilateral, but that he would seek to clarify this.

15. (SBU) Next, Bohigian asked about tires and cosmetics regulations. Mukim replied that on tires there was a positive interaction between the USG and GOI during a DVC that took place a couple of weeks previously. The GOI had given a presentation during the DVC with which the US side, according to Mukim, was "happy." As of now, Mukim continued, there was "no restriction" on tire imports. On cosmetics, Bohigian noted that the USG was not notified when the last set of regulations came out. Mukim replied that the draft standards would be shown to the USG in a DVC seminar on standards on September 11.

16. (SBU) Turning to Federal Mogul, Bohigian noted that there was a letter from Minister Nath indicating that the issue was resolved, but confusion continues to persist. Federal Mogul is keen to set up a seals and gaskets factory in India, but cannot proceed because of objections raised under GOI Press Note 1, which allows Federal Mogul's joint venture partner to veto the company's plans. Mukim said he understood that the company would get a new hearing (a "request for reconsideration") to resolve this.

17. (SBU) Also on September 8, Assistant Secretary Bohigian met with Ministry of Finance Revenue Secretary Bhide to discuss several tariff classification concerns raised by US industry. The first that Bohigian raised was the government's reclassification of aviation equipment used for private passengers to 3% import duty, where previously it had been scheduled at 0% import duty, along with equipment for unscheduled service. Revenue Secretary Bhide asserted that there had been no change in the import duty for private passenger aviation machinery. The only change he claimed had happened was that Indian Customs' offices were going after

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individual importers who had misused their license to avoid any import duty. Customs officers were simply following the "law of the land" to enforce license requirements, Bhide concluded.

18. (SBU) Senior Commercial Officer Carmine D'Aloisio responded, pointing out that the 3% tariff was being newly applied to much of US industry imports, and that any tariff above zero attracted further tariffs and surcharges. In this case, D'Aloisio noted, the effective tariff rate escalated to 24%. Such a high rate suppressed growth in one sector of the aviation industry, which acted as a brake on the entire industry. Bhide reiterated that no change had occurred in the duty rate, only renewed enforcement of the license requirements already established. "But let me assure you," the Revenue Secretary continued, "we are not going back on the aviation industry. It is not a change, and in the last 10-15 years, India has come very far."

19. (SBU) Bohigian next raised the retroactive duty on DVD masters imports that had been imposed. One of Bhide's subordinates claimed that the problem was one of valuation. The importers had been allowed to declare the value for purposes of assessing the import, and they were not properly including the full value of the DVD master to include royalties. Bohigian noted that the determination of how to tax imported DVD masters had been decided at the WTO for its members. Bhide quickly noted that the issue is only whether the imports are fairly stating the value. His associate noted that Customs officers are looking contract by contract to determine the true value.

110. (SBU) Bohigian followed up by questioning the retroactive nature of the duty. Bhide replied only indirectly, noting that the government has improved Customs procedures, but it cannot "promise yesterday." But, Bhide assured Assistant Secretary Bohigian, his office will look into the issue and get back to him. Bohigian also enquired about a written response to the Motion Picture Association of America that the government of India was supposed to provide. The Revenue Secretary claimed that the government always responds in writing, but requested a note with the details of the situation so he could confirm the status of events.

111. (SBU) Bohigian next asked about the continued high tariffs on heavy motorcycles. Bhide defending the government tariff, claiming that the tariff for heavy motorcycles was at 91%, even though the

peak was 105%. Bohigian disputed the level, indicating that his understanding was that the actual tariff was over 100%, but Bhide insisted that his office had figured it out and it was 91.22%. Bhide then echoed previous statements made by the Finance Minister that the number of Indians who can buy heavy motorcycles is about the same as those who can buy SUVs, that is few, especially with the current high prices of oil.

¶12. (SBU) In response to a query from the Assistant Secretary, Bhide also conceded that there was a domestic industry that was interested in keeping heavy motorcycle imports out of the Indian market and that they "made noises." Bhide pointed out that smaller motorcycles (less than 100 cc engines) attract only a 30% excise duty, as the government is trying to promote lighter motorcycles as more environmentally favorable. When Bohigian asked if the Indian produced motorcycles met new European standards, which the US heavy motorcycles did, Bhide merely replied that his office would look at the request. But, he warned, the decision to allow in the heavy motorcycles would be a political move in a coalition government, which might be difficult.

¶13. (SBU) Next up, Bohigian explained that a US manufacturer of ATM machines was having its machines improperly classified as "cash dispensing machines" that attracted a duty, whereas ATM machine imports did not. He noted that Customs had contacted the US manufacturer in writing to assert the classification and higher duty. Bhide was not aware of the situation, but indicated that it was probably about the product description that been provided. The question of whether something was a cash dispenser or an ATM was a matter of definition in the tariff code and depended on the product description. Bhide noted that Customs officers generally seek the

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higher import tariff, if there is ambiguity in the product description. He asked for details on the case so that his office could look into it.

¶14. (SBU) Bohigian lastly turned to India's investment environment, noting that caps remained in many areas of investment. Bhide agreed, saying that the government was trying to see if it could move the caps up. The government was definitely not going back on current investment levels, he assured Bohigian. Maybe the insurance cap would get raised in the upcoming Parliamentary session. One problem, Bhide asserted, was that for countries with which India had double taxation avoidance agreements, such as Mauritius and Singapore, Indian promoters tried to circumvent their tax obligations by using those channels. However, for truly direct investment, Bhide stated, India was not worried. Bohigian noted the constraints on investment in the retail sector. Bhide seemed to downplay the benefits of entering the retail sector, claiming that domestic players in retail were not showing success. There had been much hype, Bhide claimed, but nothing was happening. (See reftel for update on retail efforts in the country.)

¶15. (SBU) Bhide ended with a few predictions on India's economy over the next few months. He noted that his office was waiting to see the level of advance tax payments for the second quarter of the current fiscal year, which were due by September 15. He did not expect as much buoyancy as was seen in the first quarter. (Note: First quarter direct tax revenues were up 41% over the same period the year before; most observers expect that growth rate to subside over the rest of the fiscal year, in line with moderating economic growth. End note.) Bhide also expected inflation to remain at the 12% level or even go higher during the next six weeks, but after November he thought it would go down and that by May of next year, inflation would be in the range of 5-6%.

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